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Case No. 09 Civ. 0585
(ILG/JMA)

**ORDER FOR
PERMANENT INJUNCTION**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
DOCTOR'S ASSOCIATES INC.,

Plaintiff,

- against -

DHARMINDER SHARMA,

Defendant.
-----X

Plaintiff DOCTOR'S ASSOCIATES INC. ('DAI') having moved this Court for an Order directing the Defendant Dharminder Sharma ('defendant') to cease use of federally registered SUBWAY trademarks, unregistered trademarks, and materials used in connection with operating a SUBWAY franchise; and

The Court having granted, by Order to Show Cause dated February 13, 2009, a temporary restraining order, enjoining Defendant from engaging in the conduct set forth in the Order to Show Cause; and

The Court having granted, by Amended Order dated February 24, 2009 (the 'Preliminary Injunction'), a preliminary injunction enjoining defendant from using SUBWAY trademarks, unregistered trademarks, and materials used in connection with operating a SUBWAY franchise; and

The Court having granted, by Order dated March 12, 2009, an extension of the Preliminary Injunction until the date of an adjourned hearing regarding plaintiff's motion for permanent injunction; and

Plaintiff's motion to make permanent the preliminary injunction having duly come on to be heard on March 20, 2009; and

Defendant having appeared pro se, despite the additional time granted to him to obtain an attorney; and

Upon reading the Complaint dated February 11, 2009; the Declaration of Daryl Meyers, dated February 5, 2009; the Memorandum of Law dated February 11, 2009; the pleadings and proceedings heretofore filed and taken place herein; and after due deliberation having been had;

NOW, on motion of Kaufman & Kahn, LLP, attorneys for plaintiff, it is ORDERED that plaintiffs motion for preliminary injunction is granted; and it is ORDERED that defendant, their respective heirs, executors, assigns, successors, officers, agents, servants, employees, attorneys, parents, subsidiaries and related companies, and all persons acting for, with, by, through or under them, are permanently enjoined and restrained from:

- (a) Using, in any manner, the federally registered SUBWAY trademarks and service marks or any other term, terms or materials likely to cause confusion as to the source of origin of the SUBWAY Marks (i) as defendant's trademark, service mark, trade name, or corporate identity; (ii) on or in connection with any goods or services sold, licensed, distributed or otherwise disseminated by or on behalf of defendant ('Infringing Goods'); or (iii) in connection with the advertising or promotion of defendant's goods or services;
- (b) Using, in any manner, the \$5 FOOTLONG trademark, or signs, menus and any other materials used in connection with operating a SUBWAY franchise ('SUBWAY Materials'), (i) as defendant's trademark, service

mark, trade name, or corporate identity; (ii) on or in connection with any Infringing Goods; or (iii) in connection with the advertising or promotion of defendant's goods or services;

- (c) Using in any manner the SUBWAY Marks, the \$5 FOOTLONG mark, or SUBWAY Materials in connection with defendant's goods or services in such a manner that it is likely to create the erroneous belief that said goods or services originate with, are authorized by, sponsored by, licensed by or are in some way associated with plaintiff;
- (d) Otherwise engaging in any other acts or conduct which would cause consumers to erroneously believe that defendant's goods or services originate with, are sponsored by, authorized by, licensed by, or in any other way associated with Plaintiff; or
- (e) Copying, reproducing, distributing, or preparing any works that in any way reference the SUBWAY Marks, the \$5 FOOTLONG mark, or SUBWAY Materials.

E N T E R:

K. V.
3/24/09 *J. LECHLER, U.S.D.J.*